

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

HOMEWOOD COMPANY, L.L.C.:
LODES, INC.; AND CARY S. AND
DOROTHY B. BEIRDEMAN
REVOCABLE TRUST

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:14-cv-00907-HTW-LRA

CITY OF PEARL, MISSISSIPPI
and BRAD ROGERS

DEFENDANTS

CITY'S MOTION FOR PRELIMINARY INJUNCTION AND FOR URGENT
CONSIDERATION OF SAME

The City of Pearl, Mississippi ("Pearl" or "City") moves the Court for a preliminary injunction and respectfully request the Court's urgent consideration of same. In support, the City submits the following:

1. The City seeks preliminary injunctive relief pursuant to Rule 65 of the Rules of Civil Procedure and request urgent consideration of this motion. Plaintiffs are available for a hearing on this matter at any time and request that one be set as soon as this Court's calendar will allow. A separate Memorandum Brief in support of this Motion is being filed today.
2. The City opposes the placement of any factory manufactured homes in the Plaintiffs' trailer parks so long as said trailer parks and the structures therein are not in full compliance with the City's Rental Housing Code, Property Maintenance Code, and life safety codes and while dangerous life threatening conditions are present at said trailer parks.

3. Some or all of the Plaintiffs are moving structures (vinyl/aluminum sided factory constructed boxes) into their trailer parks without complying with the law. This lawlessness compounds the dangerous life threatening conditions at said trailer parks. This lawlessness and the dangerous life threatening conditions at said trailer parks are highly prejudicial.

4. The City is located in a tornado alley: FEMA Wind Zone IV (250 mph).

5. On April 28, 2014, between the hours of 6:27 p.m., and 7:15 p.m., an EF-3 Tornado with speeds up to 156 mph ripped a 400 yard wide path for 30.1 miles in Hinds, Rankin and Scott Counties. The tornado caused 1 death and at least 20 reported injuries. Numerous persons were injured in Pearl due to the foreseeable failure of boxes used as homes exactly like the boxes used as homes located in the the trailer parks owned and operated by the Plaintiffs.



6. The April 2014 tornado extensively destroyed and damaged trailers in Pearl, Mississippi and numerous lives were at risk of serious harm and death due to the trailer parks owned and operated by the Plaintiffs.

7. The City has enacted municipal code provisions which require the Plaintiffs to undertake steps to make their trailer parks safer. These provisions include installation of storm shelters. The City has also notified the Plaintiffs that the present locations of their moveable boxes presents an unreasonable and unnecessary risk of harm to the inhabitants of these parks, the neighboring property owners and inhabitants and the City's first responders and that these dangers should be corrected.

8. The City is entitled to a preliminary injunction. The City is able to provide evidence sufficient to support a *prima facie* case of the following:

- a. a substantial likelihood of success on
- b. a substantial threat of irreparable if the injunction is not issued;
- c. that the threatened if the is denied outweighs any harm that will result the is and
- d. that the grant of an injunction will not disprove the public interest.

9. In support of the City's Motion for Preliminary Injunction, and in addition to evidence presented at the hearing, the City submits the following exhibits:

Exhibit 1 Statement of Carl Kibby (Fire Chief of City of Pearl)

Exhibit 2 FEMA Tornado Risk Map

Exhibit 3 Dead Trap Article

WHEREFORE PREMISES CONSIDERED the City of Pearl, Mississippi prays that a preliminary injunction be issued prohibiting the Plaintiffs from placing any additional structures,

including but not limited to factory built homes, in their trailer parks in Pearl, Mississippi, until said parks and the structures therein have been made safe and otherwise complied with the City's Codes concerning safety, including but not limited to the Rental Housing Code and the Property Maintenance Code, and the Plaintiffs have removed or reconfigured their moveable boxes to end those conditions which presents an unreasonable and unnecessary risk of harm to the inhabitants of these parks, the neighboring property owners and inhabitants and the City's first responders.

The City prays for such other and additional relief to which it may be entitled.

This the 30th Day of September, 2015.

Respectfully submitted,

City of Pearl, Mississippi

By s/James A. Bobo

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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2015, I electronically filed the foregoing pleading with the Clerk of the Court using the ECF system which sent notification of such filing to the following: John Corlew and Virginia Mumford and Greg Hemphill and I hereby certify that I

have mailed by United States Postal Service the document to the following non-ECF participants: None.

s/James A. Bobo

James A. Bobo